

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No. 5:22-CV-00068-BO

YOLANDA IRVING, individually and as the)
natural parent and guardian of J.I., JUWAN)
HARRINGTON, CYDNEEA)
HARRINGTON, KENYA WALTON,)
individually and as the natural parent and)
guardian of R.W., ZIYEL WHITLEY,)
DYAMOND WHITLEY, KAMISHA)
WHITLEY, NANETTA GRANT as the)
natural parent and guardian of Z.G., and)
EMANCIPATE NC, INC.,)

Plaintiffs,

v.

THE CITY OF RALEIGH, OFFICER OMAR)
I. ABDULLAH, SERGEANT WILLIAM)
ROLFE, OFFICER RISHAR PIERRE)
MONROE, OFFICER JULIEN DAVID)
RATTELADE, OFFICER MEGHAN)
CAROLINE GAY, JOHN and JANE DOE)
OFFICERS 1-10, in their individual)
capacities, Chief of Police ESTELLA)
PATTERSON, and City Manager)
MARCHELL ADAMS-DAVID, in their)
official capacities,)

Defendants.

**MOTION TO EXTEND TIME TO
ANSWER OR OTHERWISE PLEAD BY
CITY MANAGER MARCHELL
ADAMS-DAVID AND POLICE CHIEF
ESTELLA PATTERSON
(With Consent)**

[Fed. R. Civ. P. 6(b); Local Civil R. 6.1]

Defendant City Manager Marchell Adams-David in her official capacity and Defendant Police Chief in her official capacity (collectively, the “Official Capacity Defendants”) move the Court, pursuant to Fed. R. Civ. P. 6(b) and Local Civil Rule 6.1, for an extension of time to file and serve an answer, pleadings, or motions in response to Plaintiffs’ amended complaint. In support of this motion, the Official Capacity Defendants respectfully show the Court the following:

1. Plaintiffs, except for Emancipate NC, Inc., filed their original complaint [D.E. 2] on February 22, 2022. The Defendants timely responded to the original complaint. [D.E. 30, 32, 34, 37.]

2. Plaintiffs filed their amended complaint [D.E. 41] on May 16, 2022, adding additional parties to this action: Plaintiff Emancipate NC, Inc. and the Official Capacity Defendants in their official capacities only. Plaintiffs also made substantive changes to the original complaint including additional allegations and claims against the City and the new Official Capacity Defendants.

3. Responsive pleadings from the Defendant City of Raleigh are presently due on June 30, 2022.

4. City Manager Adams-David was served by certified mail with Summons and Amended Complaint on May 27, 2022. Her responsive pleading is presently due on June 17, 2022. Chief Patterson was served by certified mail with Summons and Amended Complaint on May 25, 2022. Her responsive pleading is presently due on June 15, 2022.

5. An official capacity claim is simply another way of bringing suit against a municipal employer. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989). Defendant City of Raleigh wishes to file a single responsive pleading and not to respond separately for itself and each official also named in an official capacity. Judicial economy is served by having a single set of pleadings from the City of Raleigh. In addition, counsel for the Official Capacity Defendants needs additional time to prepare the response to the amended complaint.

6. The time has not yet expired for the Official Capacity Defendants to file responsive pleadings in response to Plaintiffs' amended complaint. Accordingly, the Official Capacity Defendants respectfully request that the Court allow them through and including Thursday, June

30, 2022, to file responsive pleadings in response to Plaintiffs' amended complaint, making their responses due at the same time as the City's response.

7. This Motion is being filed in good faith and not for the purpose of delaying this action. Granting this motion will not interfere with any scheduled deadline.

8. Pursuant to Local Civil Rule 6.1, prior to filing this motion, counsel for the Official Capacity Defendants consulted with counsel for Plaintiffs regarding Plaintiffs' position on this motion. Plaintiffs have consented to an extension of time to June 30, 2022.

9. The Official Capacity Defendants respectfully submit that good cause exists for granting this motion, based upon the above-described circumstances.

WHEREFORE, the Official Capacity Defendants move the Court for extension of time to file an answer or otherwise plead in response to Plaintiffs' Amended Complaint, until and including **Thursday, June 30, 2022**.

This the 10th day of June, 2022.

CITY OF RALEIGH
Robin L. Tatum, City Attorney

By: /s/ Dorothy V. Kibler
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DEFENDANTS

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CERTIFICATE OF SERVICE

THE CITY OF RALEIGH, OFFICER OMAR)
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ROLFE, OFFICER RISHAR PIERRE)
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OFFICERS 1-10, in their individual)
capacities, Chief of Police ESTELLA)
PATTERSON, and City Manager)
MARCHELL ADAMS-DAVID, in their)
official capacities,)

Defendants.)

I hereby certify that on June 10, 2022, I electronically filed the foregoing Motion to
Extend Time with the Clerk of Court using the CM/ECF system, which will send notification of
such filing to all counsel of record as follows:

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Respectfully submitted,

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Robin L. Tatum, City Attorney

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